

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER ANSTICE,

Defendant.

ORDER

18-cr-50-wmc-3

A hearing to address the Seventh Circuit Court of Appeals' limited remand of Christopher Anstice conditions was held on October 31, 2019. The defendant knowingly and voluntarily waived his right to physically present at the re-sentencing hearing pursuant to Fed. R. Crim. P. 43(c)(1)(B). The defendant was represented in absentia by Associate Federal Defender Kelly Welsh. The government was represented by Assistant U.S. Attorney Aaron Wegner. U.S. Probation Officer Marc Stieve was also present. From the record I make the following findings of fact.

FACTS

The defendant was sentenced in the Western District of Wisconsin on October 2, 2018, following his conviction for conspiracy to distribute 500 or more grams of methamphetamine, in violation of 21 U.S.C. §§ 841(a) and 846. This offense is a Class A felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 120 months, with a 60-month term of supervised release to follow. This was the mandatory minimum sentence required by statute.

The Seventh Circuit Court of Appeals issued an order for limited remand in this case on July 19, 2019. The parties have stipulated to a reconsideration of the mandatory and non-mandatory conditions of supervised release and waived appearances. That request has been granted.

FINDINGS

Pursuant to the Sentencing Reform Act of 1984, the primary goals of supervised release are to assist defendants' transition into the community after a term of imprisonment and to provide rehabilitation. Supervision in this case will provide the defendant with needed correctional programming, including rehabilitative programs, to assist with community reintegration; afford adequate deterrence to further criminal conduct; and to protect the public from further crimes perpetrated by the defendant.

The undischarged term of imprisonment is to be followed by a five-year term of supervised release, subject to mandatory conditions. In light of the nature of the offense and the defendant's personal history, I adopt condition numbers 1 through 12, and 14 through 16 as proposed and justified in the second addendum to the presentence report. Neither party has raised any objections to the proposals and the defendant, through defense counsel has waived both the oral reading of conditions and individualized justification of each.

If, when the defendant is released from confinement to begin his term of supervised release, either the defendant or the supervising probation officer believes that any of the conditions imposed today are no longer appropriate, either one may petition the Court for review.

The instant offense is drug related, and the defendant has a history of drug use. The mandatory drug testing as set forth at 18 U.S.C. § 3583(d) is not waived. The drug testing requirements are sufficiently addressed in special condition number 16.

ORDER

IT IS ORDERED that defendant is to serve a five-year term of supervised release as previously ordered with the following modifications to his non-mandatory conditions supervised release:

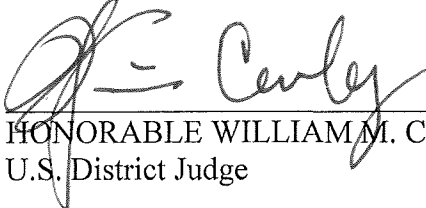
Defendant shall report to the probation office in the district to which defendant is released within 72 hours of release from the custody of the Bureau of Prisons, unless instructed by the probation office to report within a different time frame.

Defendant shall not possess a firearm, ammunition, destructive device or dangerous weapon.

The updated conditions are enumerated below and incorporated into this order.

Entered on October 31, 2019.

BY THE COURT:


HONORABLE WILLIAM M. CONLEY
U.S. District Judge

Mandatory Conditions - 18 U.S.C. § 3583(d)

- Defendant shall not commit another federal, state, or local crime.
- Defendant shall not illegally possess a controlled substance. The defendant is subject to drug testing according to 18 U.S.C. § 3583(d).
- Defendant shall cooperate with the collection of DNA by the U.S. Justice Department and/or the U.S. Probation and Pretrial Services Office as required by Public Law 108-405.

Non-Mandatory Conditions

STANDARD CONDITIONS OF SUPERVISION		JUSTIFICATION
1)	Defendant shall not knowingly leave the judicial district in which defendant is being supervised without the permission of the Court or probation officer.	To provide community protection, rehabilitation for defendant, and to enable the supervising probation officer's statutory duty to keep informed of defendant's location, conduct, condition, and compliance. 18 U.S.C. § 3553(a)(1), (a)(2)(B) and (C); 18 U.S.C. § 3563(b)(14); 18 U.S.C. § 3603(2) and (7); USSG § 5B1.3(b)(1)(A), (C), (D) and (b)(2); USSG § 5D1.3(b)(1)(A), (B), (C) and (b)(2).
2)	Defendant is to report to the probation office as directed by the Court or probation officer and shall submit a complete written report within the first five days of each month, answer inquiries by the probation officer, and follow the officer's instructions. The monthly report and the answer to inquiries shall be truthful in all respects unless a fully truthful statement would tend to incriminate defendant, in violation of defendant's constitutional rights, in which case defendant has the right to remain silent.	To provide community protection, rehabilitation for defendant, to ensure officer and defendant safety, and to enable the supervising probation officer's statutory duty to keep informed of defendant's location, conduct, condition, and compliance. 18 U.S.C. § 3553(a)(1), (a)(2)(B), (C) and (D); 18 U.S.C. § 3563(b)(15) and (17); 18 U.S.C. § 3603(2), (3), (4) and (7); USSG § 5B1.3(b)(1)(B)(C), (D), (E) and (b)(2); USSG § 5D1.3(b)(1)(B), (C), (D) and (b)(2).
3)	Defendant shall maintain lawful employment, seek lawful employment, or enroll and participate in a course of study or vocational training that will equip defendant for suitable employment, unless excused by the probation officer or the Court.	Evidence based practice research indicates that lawful, stable employment and education are pro-social activities that reinforce the rehabilitation of defendant. Employment and education have been identified as risk factors for recidivism. 18 U.S.C. § 3553(a)(2)(B), (C) and (D); 18 U.S.C. § 3563(b)(4) and (5); 18 U.S.C. § 3603(2), (3), (4) and (7); USSG § 5B1.3(b)(1)(C), (D) and (E); USSG § 5D1.3(b)(1)(B), (C) and (D).

4)	Defendant shall notify the probation officer within seventy-two hours of any change in residence, employer, or any change in job classification.	To provide community protection, rehabilitation for defendant, to ensure officer and defendant safety, and to enable the supervising probation officer's statutory duty to keep informed of defendant's location, conduct, condition, and compliance. 18 U.S.C. § 3553(a)(2)(C); 18 U.S.C. § 3563(b)(13), (15), (16) and (19); 18 U.S.C. § 3603(2), (3), (4) and (7); USSG § 5B1.3(b)(1)(D) and (b)(2); USSG § 5D1.3(b)(1)(C).
5)	Defendant shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician. Defendant shall not use any product containing cannabidiol (CBD) or tetrahydrocannabinol (THC), except as prescribed by a physician.	Evidence based practice research indicates the use of illicit chemicals is a risk factor for recidivism. This condition is recommended to assist with defendant's rehabilitation, officer and defendant safety, and to protect the public. 18 U.S.C. § 3553(a)(1), (a)(2)(A), (B) and (C); 18 U.S.C. § 3563(b)(7); 18 U.S.C. § 3603(3); USSG § 5B1.3(b)(1)(A), (B), (C) and (D); USSG § 5D1.3(b)(1)(A), (B) and (C).
6)	Defendant shall not visit places where defendant knows or has reason to believe controlled substances are illegally sold, used, distributed, or administered.	Evidence based practice research indicates that frequenting places where illicit chemicals are sold, used, distributed or administered increases the risk that defendant will purchase, use or possess illicit chemicals. Individuals involved in the distribution of illicit chemicals present a risk of peer association as identified in the research. This condition supports rehabilitation of defendant and promotes public safety. 18 U.S.C. § 3553(a)(1), (a)(2)(B) and (C); 18 U.S.C. § 3563(b)(6); 18 U.S.C. § 3603(3); USSG § 5B1.3(b)(1)(A), (B), (C), (D) and (b)(2); USSG § 5D1.3(b)(1)(A), (B) and (C).
7)	Defendant shall not meet, communicate, or spend time with any persons defendant knows to be engaged in criminal activity or planning to engage in criminal activity.	Evidence based practice research indicates that association with peers involved in criminal activity increases the risk of recidivism. This condition promotes and encourages pro-social relationships that are conducive to a law-abiding lifestyle. 18 U.S.C. § 3553(a)(1), (a)(2)(A), (B) and (C); 18 U.S.C. § 3563(b)(6); 18 U.S.C. § 3603(3); USSG § 5B1.3(b)(1)(B), (C) and (D); USSG § 5D1.3(b)(1)(B) and (C).
8)	Defendant shall permit a probation officer to visit defendant at home, work, or at some other	Community contacts ensure compliance with court-ordered conditions and assist defendant

	mutually convenient location designated by the probation officer at any reasonable time and shall permit confiscation of any contraband observed in plain view by the probation officer.	in maintaining a law-abiding lifestyle. 18 U.S.C. § 3553(a)(1), (a)(2)(A), (B), and (C); 18 U.S.C. § 3563(b)(13), (15), (16) and (17); 18 U.S.C. § 3603(2), (3), (4) and (7); USSG § 5B1.3(b)(1)(A), (B), (C), (D) and (b)(2); USSG § 5D1.3(b)(1)(A), (B), (C) and (b)(2).
9)	Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.	To provide for community safety and rehabilitation of defendant. 18 U.S.C. § 3553(a)(1), (a)(2)(A), (B) and (C); 18 U.S.C. § 3563(b)(18); 18 U.S.C. § 3603(2), (3), (4) and (7); USSG § 5B1.3 (b)(1)(A), (B), (C) and (D); USSG § 5D1.3 (b)(1)(A), (B) and (C).
10)	Defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court.	Evidence based practice research indicates contact with criminals and potential involvement in facilitating other crimes sanctioned by law enforcement officers directly contradicts the condition of no new offenses and criminal associations, which are risk factors for recidivism. Therefore, strict monitoring by the Court/probation office is necessary for the safety of the community, defendant, and the supervising probation officer. 18 U.S.C. § 3553(a)(1), (a)(2)(A), (B) and (C); 18 U.S.C. § 3563(b)(5), (6), (15), (17) and (18); 18 U.S.C. § 3603(2), (3), (4) and (7); USSG § 5B1.3(b)(1)(A), (B), (C) and (D); USSG § 5D1.3(b)(1)(A), (B) and (C).
11)	Defendant shall report to the probation office in the district to which defendant is released within 72 hours of release from the custody of the Bureau of Prisons, unless instructed by the probation office to report within a different time frame.	To review and clarify conditions of supervision imposed by the court at sentencing. To assist with risk and needs assessment, monitoring requirements, release planning, and program referrals. Set goals for supervision. 18 U.S.C. § 5363(b)(15); USSG §§ 5B1.3(c)(1) and 5D1.3(c)(1)
12)	Defendant shall not possess a firearm, ammunition, destructive device or dangerous weapon.	To comply with statutory provisions. To provide for community safety. 18 U.S.C. §§ 921 and 922; 18 U.S.C. § 5363(b)(10); USSG § 5D1.3(c)(10)
13)	As directed by the probation officer, defendant shall notify ____ (<i>identify the third parties</i>) of risks that may be occasioned by defendant's criminal record and/or ____ (<i>identify what is to be disclosed</i>). The probation officer may also take steps to confirm defendant's compliance with this notification requirement or provide	To protect the public from further crimes perpetrated by defendant. 18 U.S.C. § 3553(a)(1), (b)(2)(A), (B) and (C); 18 U.S.C. § 3563(b)(3), (4), (5), (6), (13) and (16); in a case of crimes against property 18 U.S.C. § 3555; 18 U.S.C. § 3603(2), (3), (4) and (7); USSG § 5B1.3(b)(1)(A), (B), (C) and (D) and

	such notifications directly to third parties identified above.	(b)(2); USSG § 5D1.3(b)(1)(A), (B), (C) and (b)(2); USSG § 5F1.5.
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Special Conditions

14) Provide the supervising U.S. Probation Officer any and all requested financial information, including copies of state and federal tax returns. *(Based on the offense of conviction which involves a mandatory criminal assessment penalty, the defendant's history of selling controlled substances for profit, and to assess the defendant's ability to pay for treatment services.)*

15) Submit person, property, residence, papers, vehicle, or office to a search conducted by a U.S. Probation Officer at a reasonable time and manner, whenever the probation officer has reasonable suspicion of contraband or of the violation of a condition of release relating to substance abuse or illegal activities; failure to submit to a search may be a ground for revocation; defendant shall warn any other residents that the premises defendant is occupying may be subject to searches pursuant to this condition. *(Based on the nature of the offense which involved the possession and distribution of methamphetamine, the defendant's criminal history, and the need to protect the community and ensure the safety of the supervising probation officer.)*

16) Participate in substance abuse treatment. If defendant is eligible for funding from any source to cover the cost of treatment, defendant is to make reasonable efforts to obtain such funding. Participation in treatment does not require payment by defendant unless it is clear defendant can afford it. Defendant shall submit to drug testing beginning within 15 days of defendant's release and 60 drug tests annually thereafter. The probation office may utilize the Administrative Office of the U.S. Courts' phased collection process. *(Based on the defendant's extensive substance abuse history and the offense of conviction which involves methamphetamine.)*